



**State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-5171



Sherryland Park, Inc.
Attn: George Hast
Sherryland Village PMB
Tilton, NH 03276-7703

Re Sherryland Water System
Tilton, New Hampshire
EPA #2353040

**ADMINISTRATIVE ORDER
No. WD 03-027**

December 9, 2003

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division, to Sherryland Park, Inc. pursuant to RSA 485:4 and RSA 485:58. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH 03301.
2. Sherryland Park, Inc. is a New Hampshire corporation having a mailing address of Sherryland Village PMB, Tilton, NH 03276-7703. George Hast is the designated representative of Sherryland Park, Inc. for the purpose of water supply issues.

C. STATEMENTS OF FACTS AND LAW

1. RSA 485 authorizes DES to regulate public water supplies. RSA 485:3 authorizes DES to adopt drinking water rules which identify contaminants that may have an adverse effect on health, which establish maximum contaminant levels that are acceptable for human consumption, which establish criteria and procedures to assure compliance with such maximum contaminant levels, and which identify criteria and standards to ensure the proper operation and maintenance of water systems. Pursuant to this authority, DES has adopted NH Admin. Rules Env-Ws 300.
2. Sherryland Park, Inc. is the owner of a water system which serves approximately 36 mobile homes with an estimated population of 88 persons on School Street in Tilton, New Hampshire ("Water System"). The Water System is a community water system as defined in RSA 485:1-a, I and Env-Ws 302.02(i).
3. RSA 485:41, VIII authorizes DES to adopt rules to establish the procedures for issuing a permit to operate to a water system as authorized by RSA 485:3-a.

4. Env-Ws 303.03 requires each community and non-transient, non-community water system to obtain from DES a permit to operate which is renewable, upon payment of the applicable fee, on July 1 of each year for the state fiscal year beginning on that date.
5. RSA 485:41, VIII sets the permit to operate fee at \$300.00 per year for community water systems with 30 or more service connections. The Water System has 36 service connections and therefore its annual permit to operate fee is \$300.00
6. The Water System failed to pay the permit to operate fee for state fiscal year 2004.
7. Env-Ws 360.14 requires the owner of each community water system to prepare an emergency plan to address emergency situations and to submit a copy of the plan to DES.
8. On or about March 21, 2002, DES sent the Water System a letter that explained the requirements of the emergency plan rule, noted the deadline of March 15, 2003, for submission of a copy of the emergency plan to DES, and indicated how to obtain assistance in preparing the emergency plan.
9. DES records indicate that the Water System did not submit a copy of its emergency plan by the March 15, 2003, deadline.
10. DES records show that the Water System was sent a second letter, dated March 31, 2003, which noted the failure of the system to submit an emergency plan to DES by the March 15, 2003, deadline and requested that the emergency plan be submitted by June 30, 2003.

DES has no record of the requested response to the March 31, 2003, letter.
12. On or about August 14, 2003, Letter of Deficiency #WSEB 03-228 ("LOD") was issued to the Water System regarding the outstanding permit to operate fee of \$300.00 for state fiscal year 2004 and the failure to submit a copy of its emergency plan to DES. The LOD requested the Water System pay the outstanding permit to operate fee and submit a copy of its emergency plan to DES by August 28, 2003.
13. The LOD was received by the Water System as evidenced by a signed postal receipt.
4. DES has no record of the requested responses to the LOD.
15. On September 4, 2003, and September 22, 2003, DES staff left detailed messages on George Hast's telephone answering machine concerning the overdue responses to the LOD. Both phone messages requested payment of the outstanding permit to operate fee and submission of the emergency plan to DES.
16. DES has no record of the requested responses to the September 4, 2003, and September 22, 2003, telephone messages.

17. On October 8, 2003, a second DES staff member spoke with George Hast on his cellular telephone to inquire as to the status of the emergency plan for the Water System. George Hast made it clear that he had no intention of preparing an emergency plan.

18. To date, the Water System has not paid its 2004 permit to operate fee and has not submitted an emergency plan to DES.

D. DETERMINATION OF VIOLATIONS

1. The Water System has violated RSA 485:41, VIII and Env-Ws 303.03 by failing to pay the permit to operate fee of \$300.00 for state fiscal year 2004.
2. The Water System has violated Env-Ws 360.14 by failing to submit a copy of its emergency plan to DES.
3. As owner of the Water System, Sherryland Park, Inc., is responsible for the violation noted herein.

E. ORDER

Based on the above findings, DES hereby orders Sherryland Park, Inc. as follows:

1. **Within 21 days of the date of this Order**, pay the \$300 permit to operate fee for state fiscal year 2004.
2. **Within 30 days of the date of this Order**, submit to DES a copy of the Water System's emergency plan that meets the requirements of Env-Ws 360.14.
3. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Alan Leach
Water Supply Engineering Bureau
Department of Environmental Services
29 Hazen Drive, PO Box 95
Concord, NH 03302-0095
Telephone: (603) 271-2854
Fax: (603) 271-5171
e-mail: aleach@des.state.nh.us

F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Water Council by filing an appeal that meets the requirements specified in Env-WC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve Sherryland Park, Inc. of the obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 485:58 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Sherryland Park, Inc. remains obligated to comply with all applicable drinking water statutes and rules. DES will continue to monitor Sherryland Park, Inc.'s compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Belknap County Registry of Deeds so as to run with the land.

COPY

Harry T. Stewart, P.E. Director
Water Division

COPY
for Michael P. Nolin, Asst. Comm

Michael P. Nolin
Commissioner

Certified Mail/RRR: #7000 0600 0023 9932 7136

cc: Gretchen Rule, DES Legal Unit
Public Information Officer, DES PIP Office
DES Water Division Director's Office
Jennifer Patterson, Sr. Assistant Attorney General
Belknap County Registry of Deeds
Board of Selectmen, Town of Tilton
Town of Tilton Health Officer
US EPA, Region 1